

CHIROPRACTIC PHYSICIANS' BOARD OF NEVADA



NEWSLETTER

ISSUE NO. 27
NOVEMBER, 2003

WELCOME TO NEW BOARD MEMBERS

Drs. Margaret Colucci and Ian Yamane were appointed by Governor Kenny Guinn to serve on the Chiropractic Physicians' Board on October 31, 2002, replacing long-time board members, Drs. Jeffrey Andrews and Bill Bailey. Dr. Colucci was first licensed in Nevada in 1992 and Dr. Yamane in 1994. They both practice in Las Vegas. On October 31, 2003, Dr. Donald Miner, who has practiced in Gardnerville for over 20 years, was appointed to the board to replace Dr. Lawrence Davis, and Robert Lazenby, President of Lazenby and Associates, Las Vegas, was appointed to replace Vivienne Kerns as the board's Consumer Member.

LICENSE/CERTIFICATE RENEWALS

Recent changes in the chiropractic statutes and regulations will affect 2004 renewals:

DCs renewing on active status are **no longer required** to attend a mandatory two-hour seminar in a topic specified by the board. In addition, the exemption for licensees who have reached the age of 70 years has been eliminated.

The CE requirement for 2004 renewal is that all active licensees, including anyone who has reached the age of 70 years, must submit satisfactory proof to the board that he has attended at least 12 hours of continuing education which is approved or endorsed by the board. (NRS 634.130(3))

The 2004 renewal fee for inactive DCs has been increased from \$95 to \$100. The 2004 renewal fee for **Chiropractor's Assistants and Chiropractor's Assistants for Massage** has been increased from \$35 to \$50. (NAC 634.200(1))

OTHER STATUTORY/REGULATORY CHANGES

Fees: The fee for reinstating a license to practice chiropractic which has been suspended or revoked was increased from \$300 to \$500. (NAC 634.200(1))

A \$50 fee for an application for a temporary license was added in addition to the existing \$50 fee for issuance of a temporary license. (NAC 634.200(1))

Registration of Independent Contractors: This requirement was eliminated. (NAC 634.366)

Applicants for on-the-job training as a CA: Applications are required to be submitted within 30 days of commencing work as a CA trainee. (NAC 634.360(1))

CA training program: The supervising DC of a CA applicant who has failed the exam two times must submit to the board for its approval a plan for additional training within 30 days of the date of the notice from the board of the results of the examination. (NAC 634.365(5))

Registration of licenses by other jurisdictions: A licensee who is registered under another chapter of NRS is required to report the registration to the CPBN within 15 days. (NAC 634.366)

NRS 634.018(3) Unprofessional conduct clarified: Assuring that a manifestly incurable disease can be permanently cured.

Definitions added to subsection 14 of NRS 634.018, Unprofessional conduct: (a) "Designated agent" means a person who renders service to a licensee on a contract basis and is not an employee of the licensee, and (b) "Solicitation" means the attempt to acquire a new patient through information obtained from a law enforcement agency, medical facility or the report of any other party, which information indicates that the potential new patient may be vulnerable to undue influence, as described in this subsection. (NRS 634.018(14))

New section added to NRS 634.018, Unprofessional conduct: "Aiding, abetting, commanding, counseling, encouraging, inducing or soliciting an insurer or other third-party payor to reduce or deny payment or reimbursement for the care of treatment of a patient, unless such action is supported by: (a) The medical records of the patient; and (b) An examination of the patient by the chiropractic physician taking such action." (NRS 634.018(16)) (Cont'd on Page 2)

MORE IMPORTANT STATUTORY/REGULATORY CHANGES

Chiropractic college accreditation requirement for DC applicants now allows that “the Board may, for good cause shown, waive the requirement for a particular applicant that the college of chiropractic from which the applicant graduated must be accredited by the Council on Chiropractic Education or have a reciprocal agreement with the Council on Chiropractic Education or a governmental accrediting agency.” (*NRS 634.090*)

Addition to *NRS 634.208(1) Injunction against unlicensed practice*: “As used in this subsection, “practicing chiropractic” includes the conducting of independent examinations and the offering of opinions regarding the treatment or care, or both, with respect to patients who are residents of this state.”

Provisions adopted for all boards: a) Elimination of a private reprimand as a form of discipline; a public reprimand remains available to the board, b) Complaints filed with the board and all information compiled from the investigation to determine whether to initiate a disciplinary proceeding are confidential; whereas the complaint filed by the board against the licensee and all evidence used to decide the discipline are not confidential, but are “public records”, and c) The board’s decision, findings and conclusions are also declared to be “public records”.

New regulation governing manipulation under anesthesia: 1. A licensee shall not perform manipulation on a patient under anesthesia unless the licensee: (a) Has obtained certification to perform such manipulation or is currently enrolled in a certification program under the direct supervision of a qualified instructor from: (1) A college of chiropractic that is accredited by the Council on Chiropractic Education; or (2) Another program approved by the Board; and (b) Performs the manipulation on the patient in a hospital or surgical center or office-based surgery practice for ambulatory patients which is licensed by the Health Division of the Department of Human Resources and accredited by: (1) The Joint Commission on Accreditation of Healthcare Organizations; or (2) The National Committee for Quality Assurance. 2. As used in this section: (a) “Hospital” has the meaning ascribed to it in *NRS 449.012*. (B) “Surgical center for ambulatory patients” has the meaning ascribed to it in *NRS 449.019*.

CA ancillary services other than massage further defined to include, without limitation: (a) Administering to patients by means of physiotherapeutic equipment; (b)

Taking and developing X-rays; (c) Assisting with the education of a patient concerning his health; (d) Assisting a patient with exercise or rehabilitation activities; (e) Taking the history of the health of a patient; and (f) Assisting the supervising licensee with an examination of a patient. (*NAC 634.348(2)*)

Deleted from *NAC 634.412*: Subsection 2, “In determining whether a licensee has maintained competence in chiropractic, the Board will consider whether the licensee: (a) Applies therapeutic modalities properly, including, without limitation, whether the licensee uses therapeutic modalities that are appropriate for the treatment of a patient as documented by the record of that patient; and (b) Manages cases in such a manner that the services provided to a patient are supported by the record of the patient.”

Definitions added to unprofessional conduct section of regulations: “Capping” means the use by a licensee of the services of a person who is remunerated for referring to the licensee a new patient who has been involved in a motor vehicle accident or who has been injured as a result of the actions of another person.

“Fee splitting” means the acceptance of remuneration by a licensee for referring a patient to another provider of health care or a health care facility or the provision of remuneration by a licensee for a referral to the business of the licensee.

“Performing manipulation on a patient under anesthesia without first obtaining the certification required pursuant to section 2 of this regulation.

“Engaging with a patient in a romantic or dating relationship unless: (1) The patient is the spouse of the licensee; or (2) The patient is involved in a dating relationship with the licensee and the patient signs an informed consent. . .” (Note: See Page 3)

“Violating a provision of a chapter of title 54 of NRS other than chapter 634 of NRS pursuant to which the licensee holds a license or certificate as a provider of health care.” (*NAC 634.430*)

NAC 634.521 Prohibition against false or misleading statements amended to read: “A licensee shall not make any false or misleading communications about himself or his services. A communication shall be deemed to be misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement, considered as a whole, not misleading.”

NAC 634.560 Maintenance of records repealed: Licensees are no longer required to maintain file of advertising records.

(Continued on Page 3)

MORE IMPORTANT REGULATORY CHANGES

It is very important that all licensees be aware of the following requirements that have been added to NAC 634:

Under *NAC 634.340 Practice by applicant waiting to take examination*, the following section has been added:

- 2. The supervising licensee shall inform the applicant of the provisions of this section and the applicant must sign a statement indicating that he has been so informed and that he understands the provisions and agrees to comply with them. The statement must be in substantially the following form:

I,, (name of applicant) am an applicant for a license to practice chiropractic who is waiting to take the Board's examination. I have been informed by my supervising chiropractor, (name of supervising chiropractor) of the content of the provisions of NAC 634.340. I understand those provisions and I agree that I will not perform a chiropractic adjustment or any act prohibited by subsection 4 of NAC 634.340 during this supervisory period.

.....
(date) (signature of applicant)

Under *NAC 634.460 Chiropractor's assistant and chiropractor's assistant for massage: Prohibited acts*, the following section has been added:

- 2. The supervising licensee shall inform each chiropractor's assistant, chiropractor's assistant for massage and chiropractor's assistant trainee who is subject to the supervision of the licensee of the provisions of this section and the chiropractor's assistant, chiropractor's assistant for massage or chiropractor's assistant trainee must sign a statement indicating that he has been so informed and that he understands the provisions and agrees to comply with them. The statement must be in substantially the following form:

I,, (name and title of person supervised by chiropractor) have been informed by my supervising chiropractor, (name of supervising chiropractor) of the content of the provisions of NAC 634.460. I understand those provisions and I agree that I will not perform a chiropractic adjustment or any other act prohibited by NAC 634.460 during this supervisory period.

.....
(date) (Signature of person supervised by chiropractor)

Under *NAC 634.430 Unprofessional conduct*, the following section pertaining to **informed consent** has been added:

- 3. A licensee must obtain the informed consent of a patient with whom the licensee is having a dating relationship each time before the licensee performs chiropractic services on the patient. The consent must be in substantially the following form:

I am having a dating relationship with (name of chiropractor) and I consent to receiving chiropractic services on(date) from this chiropractor.

.....
(date) (signature of patient)

Disposition of Complaints

Complaint No. 02-11 This administrative complaint was filed because the licensee was in default on a student loan, a violation of NAC 634.430(1j). As soon as the doctor received notice of the complaint he arranged to enter into an agreement with Health & Human Services to make payments on the loan. Notification was received from the U.S. Attorney that the doctor is no longer in default and the complaint was dismissed

Complaint No. 02-15 concerned referral of a PI patient by attorneys to an MD-owned clinic. The DC is an employee of the clinic and claims to have no knowledge of how patients are referred there. The complaint was referred to the Medical Board because it is not within the jurisdiction of the CPBN.

Complaint No. 02-17 was filed by a patient who was unable to obtain her records. When the treating DC was made aware of the complaint he apparently resolved the situation directly with the patient because it was subsequently withdrawn.

Complaint No. 02-18 charged that a DC had misrepresented that he is a provider for the same insurance network as the previous owner of the practice and that the patient would have to pay no charges other than the co-pay, billed for services not rendered, and left the patient on a massage machine for an hour. Upon review, the patient records and billings appear to be appropriate. It does appear that the patient was inappropriately allowed to stay on the intersegmental traction machine for too long and

he was probably not strapped down. The complaint was dismissed with a recommendation that the doctor be requested to review his procedures for intersegmental traction.

Complaint No. 02-22 was filed by a DC against another licensee who refused to release records for a PPD evaluation based on the patient's signature on a C4 form. The complaint was dismissed with the recommendation that the treating DC be reminded that he is required to comply with the provisions of NRS 629 and that he must clarify this with his staff in order to avoid delays in releasing records.

Complaint No. 02-23 alleged that the patient was overcharged, his treatment was ineffective and he was referred out because his insurance coverage ran out. A thorough review of this matter concluded in the determination that this is basically a fee dispute and the board dismissed the complaint.

Complaint No. 02-24 The patient alleged that the DC who performed her PPD also adjusted her and stated that he could cure her pain. She claimed that the PPD report is inaccurate because it resulted in a 5% impairment rating and she is still in pain. The DC denies that he treated her when she was there for the PPD and produced separate charts for the PPD and for his treatment of her that occurred a few weeks later. The complaint was dismissed.

Complaint No. 03-3 was filed by a patient who was unable to contact the DC to have her patient records sent to her insurance company. The doctor

has confirmed in writing that he did comply upon receipt of a letter from the board office. The board dismissed the complaint.

Complaint No. 03-4 This complaint was filed because a patient received a free exam as advertised, however, he misunderstood that he would be charged for subsequent treatment. He was billed \$78 but was not provided an explanation of the charges. The DC has written off the bill due to the misunderstanding and the complaint was dismissed.

Complaint No. 03-6 This complaint described in detail the mishandling of a workman's comp case. The claim was denied as a result of mishandling by the doctors and staff involved, however, there was no violation of the chiropractic statutes or regulations and the complaint was dismissed.

Complaint No. 03-7 This administrative complaint was filed upon receipt of notice that a DC was in default in the repayment of a Health Education Assistance Loan, a violation of NAC 634.430(1j), unprofessional conduct. As soon as the doctor was contacted he arranged to enter into a settlement agreement to repay the debt. He is no longer in default and the complaint was dismissed.

Complaint No. 03-9 alleged failure to provide itemized billing information, failure to submit billing claim forms to the complainant's insurance company and malicious billing and collection practices. The documentation provided by the complainant and the DC did not reveal evidence of any violations. This was determined to be a billing dispute and the complaint was dismissed.

Disposition of Complaints (Cont'd)

Complaint No. 03-11 was filed by a person who had filed a police report because a chiropractor had scratched her during a domestic dispute. The doctor was not arrested and her practice was not involved. The complaint was dismissed.

Disciplinary Actions

Mark Rubin, DC

Dr. Rubin stipulated to having been convicted of a felony for filing a false claim for insurance benefits in violation of NRS 686A.291(1)(b). The CPBN found that Dr. Rubin's conduct is a violation of NRS 634.018(6) and/or NRS 634.018(10) and/or NRS 634.140(2)(b) and ordered that he pay the board's costs in this matter.

Jeffrey Fine, DC, and Michael Handelman, DC

Drs. Fine and Handelman entered into Agreed Settlements of Disciplinary Action in which they stipulated to violations of NRS 634.018(10) and/or NRS 634.018(11), including NAC 634.430(1)(e)(1), by billing an insurance company for treatment not received by the patient. They have each agreed to pay a \$2,000 fine and to attend 24 hours of continuing education within 24 months, of which 12 hours during the first 12 months will be on the subject of record keeping, and 12 hours during the second 12 months will be on the subject of physical therapy. These hours will not count toward their continuing education requirements for license renewal.

James T. Overland, Jr., DC

Dr. Overland was found guilty of the following violations:

1. NRS 634.018(15) and/or NRS 634.018(11), including NAC 634.415 and/or NAC 634.430(m), by permitting unlicensed personnel to perform patient services.

2. NRS 634.018(11), including NRS 634.125, and/or NAC 634.415 and/or NAC 634.119, by allowing the treatment of his patients while he was absent from his practice.

3. NRS 634.018(11), including NAC 634.430(1)(e)(1), by billing patients for adjustments that were not actually provided.

4. NRS 634.018(11), including NAC 634.435(1), by failing to keep clear, complete and accurate patient records.

5. NRS 634.018(11), including NAC 634.430(1)(g), by providing falsified SOAP notes to the board's investigator.

6. NRS 634.018(11), including NAC 634.430(1)(g), by failing to provide employment records as requested by the board's investigator.

7. NRS 634.018(11), including NAC 634.430(1)(h), by failing to provide patient records upon request.

Dr. Overland's license was suspended for three years with the suspension stayed provided he reimburse the board \$52,011.23 for its costs within 90 days of the effective date of the board's order; he was assessed a fine in the amount of \$7,000 to be paid within twelve months of the effective date of the board's order; he is required to attend a board approved record keeping seminar with credit to be given for renewal of his license and to attend a board approved ethics course, both to be attended within twelve months; he is required to

hire at his expense a board approved compliance officer to monitor his practice for three years with quarterly reports to be submitted to the board; he must take and pass the CPBN law test within 90 days of the effective date of the board's order with two opportunities to pass; and he must take and pass the National Board SPEC test within 12 months of the effective date of the board's order with two opportunities to pass. Dr. Overland's license will be suspended if he fails to meet any of the above requirements.

Attention: Doctors who Perform IMEs

Based upon the statutes that define chiropractic practice in Nevada it is inappropriate for a chiropractor to render an opinion regarding medical or surgical care.

Public Notice

Dr. Roddy Wong entered an agreement for discipline in June 1996. Dr. Wong sued Cindy Wade, Jo Briggs, Jeffrey Andrews, Bill Bailey and the Board in state court. On September 23, 2003, Dr. Wong and the Board entered into a court ordered settlement of the litigation. Under the terms of the settlement, 1) the discipline of Dr. Wong is set aside in its entirety and is null and void, 2) the related Supreme Court Case No. 35939 will be dismissed with prejudice, 3) the Board will publish two consecutive notices that Dr. Wong's discipline has been set aside and is null and void, 4) the Parties will execute a mutual release of claims against the other, and 5) each Party is to bear their own costs and attorney's fees. Pursuant to the order of the court, Dr. Wong's discipline is set aside and he has been and is in good standing with the Board.

Congratulations to the following who passed the law test and are eligible to be licensed Chiropractic Physicians:

December 5, 2002

Charron Z. Darcuiel, DC
Trevelynn D. Henuset, DC
Andrew C. Kidder, DC
Chuang Y. Lin, DC
Irene Lin, DC
Kiet T. Nguyen, DC

June 1, 2003

Fred E. Bradley, DC
Jeffrey P. Daso, DC
Thomas M. Huynh, DC
Craig M. Jackson, DC
Matthew M. Johnson, DC
A. Russell Markin, DC
Matthew C. Olmstead, DC
Mandana McEntire, DC
Keith L. Quisberg, DC
John R. Robinson, DC
Joseph J. Rufrano, DC
Shirley A. Rufrano, DC
Daniel W. Schultz, DC

March 8, 2003

Roger E. Fontaine, DC
Rick A. Hutchison, DC
Layne L. Linebaugh, DC
Thor P. Mongie, DC
Chrystie M. Quilici, DC
Troy D. Russell, DC
Ryan Q. Truong, DC

September 6, 2003

Andrew K. Bader, DC
Leah Cripps, DC
Brett L. Crowley, DC
John P. Fresh, DC
Kevin D. Hagerty, DC
Sean D. Hampton, DC
Mark A. Mylan, DC
Melissa M. Plant, DC
Leigh S. Roessner, DC
Travis K. Sanders, DC
Wade A. Taylor, DC
Violet A. Touchton, DC

The following have been granted Chiropractor's Assistant certificates:

March 8, 2003

Lisa R. Barton
Fabiola E. Chavez
Jamey D. Crouch
Yvette M. Fisher
Sara M. Belanger
Sharon L. Franz
Alicia M. Herrbach
Judy Lopez
Genevieve D. Metro
Angela M. Padgett
Michele L. Squier
Christina H. Turney
Laura E. Castaneda
Melissa F. Hale
Christina Sawyer
Marilyn E. Mueller

September 6, 2003

Patty S. Allen	Diana L. Lewis
Cora Benavidez	Julia U. Maka
Laura G Bernadot	Lacy M. Meraz
Nicole D. Carrier	Belinda V. Montoya
Maria J. Duran	Yingming Qi
Shamarie Eldridge	Veronica Rosal
Lorena Estrada	Carla T. Salerno
Melissa Goldsmith	Veronica Sanchez
Monique Granada	Skye H. Steffens
Autumn L. Groth	Kristi A Walters
Tracey K. Guzman	Charles L. Williams
Wanda L. Hawkins	Ping Xu
Suyu Hsiao	Brandi Zehr

The following were granted Chiropractor's Assistant for Massage certificates:

March 8, 2003

Susana H. Barrett
Melissa D. Goldsmith
Melissa F. Hale
A. Jocelyn Maddy
Marjorie J. Lamoureux
Charles L. Williams
Aimee K. Bailey

September 6, 2003

Marcos R. Aviles	D. Charles Ogan
Laura G. Bernadot	Mariah Rogers
Regina A. R. Letoto	Karen E. Turnbull
Sharon MacDonald	Lorie L. York
Lindsey Musser	

Next Examinations

Law tests for DC licensure are offered as follows:

<u>Test Date</u>	<u>Application Deadline</u>
November 12, 2003	September 12, 2003
February 11, 2004	December 12, 2003
May 12, 2004	March 12, 2004
August 11, 2004	June 11, 2004

The next examinations for CAs and CAs for Massage will be administered in Reno and Las Vegas on Friday, February 6, 2004. **Qualified applicants whose files are complete** will receive information regarding the tests approximately 30 days prior to the test date.

The Chiropractic Physicians' Board does not offer CA test preparation courses, nor does the Board sanction any existing CA courses that are currently offered.

Community Service

On September 20, 2003, Board member Dr. Margaret Colucci contributed to the huge success of the ninth annual **Kids Day America** in the role of official chiropractic office. The event was supported by many local officials and representatives of the Las Vegas Police and Fire Departments and many others, including the Nevada Child Seekers and The Picture People, participated in the production of Child Safety ID cards for multitudes of children. Dr. Colucci, assisted by her staff, performed free spinal exams and scoliosis screenings to children who would not otherwise have access to chiropractic, and distributed information on disease prevention and health promotion.

Current Board Members

Stephanie Youngblood, DC, Vice President
Las Vegas

Margaret Colucci, DC
Las Vegas

Clyde Porter, DC, Secretary
Sparks

Ian Yamane, DC
Las Vegas

Robert Lazenby, Consumer Member
Las Vegas

Don Miner, DC
Gardnerville

DR. NORMAN ENGEL

Dr. Engel passed away on May 11, 2003. He graduated from Palmer College in 1960 and practiced in Las Vegas since 1971. In addition to chiropractic, Dr. Engel was a certified master gardener, involved in working with soil microbes. Dr. Engel appeared as an expert witness for the Board on several occasions. We offer our deepest condolences to his family, friends and associates.

Contact us at:

Chiropractic Physicians' Board of Nevada
4600 Kietzke Lane, Suite M-245
Reno, Nevada 89502-5033

Telephone	(775) 688-1921
Voice Mail	(775) 688-1919
Fax	(775) 688-1920
e-Mail	chirobd@chirobd.nv.gov
Website	chirobd.nv.gov

(Note: The chiropractic statutes and regulations can be accessed through a link on our website.)